

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED
APR 5 2018
Clerk, U.S. Courts
District Of Montana
Missoula Division

HARRY LOZEAU,

Petitioner,

vs.

MICHAEL FLETCHER, ATTORNEY
GENERAL OF THE STATE OF
MONTANA

Respondents.

CV 17-167-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendation on December 11, 2017, recommending Petitioner Harry Lozeau's ("Lozeau") Petition for Writ of Habeas Corpus (Doc. 1) be denied for lack of merit. (Doc. 2 at 5.) Lozeau filed an objection on February 6, 2018. (Doc. 5.) Consequently, Lozeau is entitled to de novo review of those findings and recommendations to which he specifically objects. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). "A party

makes a proper objection by identifying the parts of the magistrate's disposition that the party finds objectionable and presenting legal argument and supporting authority, such that the district court is able to identify the issues and the reasons supporting a contrary result." *Montana Shooting Sports Ass'n v. Holder*, 2010 WL 4102940, at *2 (D. Mont. Oct. 18, 2010) (citation omitted).

Judge Lynch concluded, and this Court agrees, that Lozeau has failed to present a claim that is cognizable in habeas as he has no constitutional right to placement at a particular facility and has provided no more than conclusory statements to support his remaining request for relief. (Doc. 2 at 2–4.) Lozeau's objection amounts to a bulleted list of facts irrelevant to the basis for Judge Lynch's Findings and Recommendation with no identification of the specific points of Judge Lynch's disposition to which he objects. (Doc. 5 at 1–2.) Although Lozeau has listed some cases he apparently deems relevant, Lozeau has failed to identify the aspects of Judge Lynch's conclusion to which the cases pertain and further failed to present any legal argument to merit their consideration. (*Id.*) Accordingly, Lozeau has failed to properly object to Judge Lynch's Findings and Recommendation and, consequently, Judge Lynch's Findings and Recommendation are reviewed for clear error.

Reviewing for clear error and finding none,

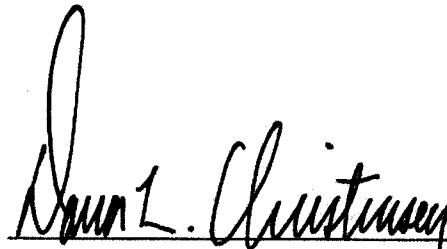
IT IS ORDERED that Judge Lynch's Findings and Recommendations (Doc. 2) are ADOPTED IN FULL.

1. Lozeau's Petition for Writ of Habeas Corpus (Doc. 1) is DENIED for lack of merit.

2. The Clerk of Court is directed to enter, by separate document, a judgment in favor of Respondents and against Petitioner.

3. A Certificate of Appealability is DENIED.

DATED this 5th day of April, 2018.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looped initial "D".

Dana L. Christensen, Chief District Judge
United States District Court